IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIFTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

-

WRIT PETITION NO : 6635 of 2000

Between:

R.N.Raju, S/o. R.N.Shankar,
Madhira Depot, Khammam District.

..... PETITIONER

AND

1 The Government of Andhra Pradesh, rep. by its Secretary,
Women, Child and Labour Welfare Department, Secretariat,
Hyderabad.
2 The A.P.S.R.T.C., rep. by its Depot Manager,
Madhira Depot, Khammam District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to call for the all records from the First Respondent by declaring the impugned proceedings No.1213/Labour-I/89-2 dated 1-7-89 issued by the First Respondent as arbitrary, without jurisdiction, illegal, unjust, contrary to the Principles of Natural justice, contrary to the Regulations of the Corporation and also in violation of Article 14 and 21 of the Constitution of India and consequently direct the first respondent to refer the dispute to the appropriate Labour Court otherwise the petitioner would suffer serious hardship and injury.

Counsel for the Petitioner: MR.P.SRIDHAR RAO

Counsel for the Respondent No.1: G.P. for Women & Child Welfare.

Counsel for the Respondent No.2: SMT.G.JYOTHI KIRAN, Standing counsel for A.P.S.R.T.C.

The Court made the following :

O R D E R :

Heard the learned counsel for the petitioner and the Government Pleader appearing for the first respondent and the learned standing counsel appearing on behalf of the second respondent.

The petitioner, who has been working as a Driver with the second respondent filed this Writ Petition, inter alia, seeking to assail the correctness of the impugned proceedings dated 01.07.1989 passed by the first respondent refusing to refer the dispute to Labour Court under the provisions of the Industrial Disputes Act, 1947 (for short, 'the Act'), as bad.

The case of the petitioner is that aggrieved of the punishment imposed by the second respondent as per the proceedings dated 04.01.1988, he sought a reference of the dispute under Section 10(1) of the Act before the first respondent, who on consideration thereof, refused to refer the same and rejected the request on the ground that the punishment imposed is justified.

Considering the submissions made and also on perusal of the material, in considering whether the reference is to be made or not, it is now well settled as per the principles laid down by the Apex Court in *Telco Convoy Drivers Mazdoor Sangh V. State of Bihar & others* to the effect that the Government while considering the question whether reference should be made or not, can not delve into merits of dispute and determine the *lis* itself. In this case, the first respondent under the impugned orders, deliberately went into the merits and held that the punishment imposed is justified, which is wholly beyond the scope of the power as conferred. In view of the same, the impugned proceedings are liable to be set aside.

The Writ Petition is, accordingly, allowed. The impugned proceedings dated 01.07.1989 of the first respondent are set aside. The first respondent is directed to refer the dispute to the Labour Court for consideration. The entire exercise shall be completed within a period of two months from the date of receipt of copy of this order. No costs.

(B.Prakash Rao, J.)

15.12.2004

DRK

Copy in one week.

B.O.

DRK

Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on

Wednesday, the fifteenth day of December, two thousand and four.

…. Registrar

Copy to:

1 The Secretary, Women, Child and Labour Welfare Department,
Government of Andhra Pradesh, Secretariat, Hyderabad.
2 The Depot Manager, A.P.S.R.T.C.,
Madhira Depot, Khammam District.

3 Two CCs to the G.P. for Women and child Welfare, High Court of A.P., High Court buildings, Hyderabad (o.u.t.)

4 Two CD copies.